

AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 23

Introduced by Senators Sher and Burton

December 2, 2002

An act to amend Sections 14528.1, 14549, 14549.1, 14549.5, 14549.6, 14552.5, 14552.51, ~~14571, 14560, 14561, 14573.51, 14575, 14575.1, 14581, and 14585 of, to add Sections 14513.5, 14549.3, and 14571.5 to, and to add and repeal Section 14576 of, the Public Resources Code, and to add Sections 14513.5 and 14575.5 to, the Public Resources Code~~, relating to beverage containers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 23, as amended, Sher. Beverage containers.

(1) The existing California Beverage Container Recycling and Litter Reduction Act requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation, for each beverage container, as defined, sold or transferred, for deposit in the California Beverage Container Recycling Fund. *Existing law sets the amount of the redemption payment as 2.5¢ for every beverage container, and 5¢ for beverage containers with a capacity of 24 or more fluid ounces.* The money in the fund is continuously appropriated to the department to pay refund values, processing payments, and for other purposes.

A violation of the act is a crime.

The

This bill would increase the amount of the redemption payment to 5¢ for every beverage container sold or transferred and would increase the

redemption payment for beverage containers with 24 or more ounces to 10¢. Since these funds would be deposited in a continuously appropriated fund, the bill would make an appropriation. The bill would also make conforming changes regarding the labeling requirements for beverage containers subject to the act.

(2) The existing act authorizes the department to pay a quality glass incentive payment of up to \$25 per ton, not to exceed a total amount of \$3,000,000 annually. The department is authorized to make these payments to an operator of any curbside recycling program or any certified entity that color-sorts glass beverage containers for recycling or processes mixed-color cullet, and the act authorizes those incentive payments only for glass beverage containers that are either collected color-sorted by curbside recycling programs, or that are collected commingled by curbside recycling programs and subsequently color-sorted by the collector or any other certified entity or processed.

This bill would authorize the department to pay the quality glass incentive payment to any operator that processes mixed color cullet to enable glass beverage containers to be utilized in the production of glass containers or fiberglass. The bill would increase the amount of the payments to \$30 per ton for color-sorted cullet and would establish a payment of \$25 per ton for mixed-color cullet. The bill would also permit those incentive payments to be made for glass beverage containers that are collected commingled by curbside recycling programs and subsequently processed in order to enable the glass to be utilized in the production of glass containers or fiberglass.

~~The bill would also authorize the department to the extent existing funds are available, to increase recycling rates for plastic beverage containers by paying a plastic beverage container recycling incentive payment to eligible certified entities, as defined, in an amount not to exceed \$3,000,000 per fiscal year, thereby making an appropriation.~~

~~The bill would establish, to the extent that existing funds are available, a recycling incentive payment for beverage container types that have a scrap value less than the cost of recycling.~~

~~(2)~~

(3) The act authorizes the department to annually pay curbside programs and neighborhood dropoff programs up to \$15,000,000, based on the volume of containers collected during the fiscal year.

This bill would revise the method of determining the volume of beverage containers collected, for purposes of these payments, to the volume collected during the calendar year.



~~(3)~~

(4) Under the act, whenever a glass container manufacturer rejects a load of redeemed glass, the glass container manufacturer is required to fill out a standardized rejection form. A certified processor seeking to dispose of those containers is prohibited from disposing of those rejected postfilled containers unless the certified processor first submits to the department, in writing, a request to dispose of the rejected material. Existing law requires glass container manufacturers and processors to take all possible steps to avert the disposal of the loads of postfilled containers, as determined by the department.

This bill would revise these provisions to instead require every container manufacturer to fill out a standardized rejection form and would include all beverage container materials within those disposal prohibitions. Because a violation of the act is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

The bill would require the department, until January 1, 2005, to calculate a specified curbside program commingled rate for bimetal containers and specified types of plastic containers. *The bill would authorize the department to enter into a contract to calculate the commingled rate and would delete the requirement to calculate the commingled rate, if the department determines specified revenues are insufficient to pay for that contract.*

~~(4)~~

(5) The existing act requires the department to calculate a processing fee and a processing payment for each beverage container with a specified scrap value. The scrap value is required to be based upon the actual costs for recycling a container type and the department is required to make this determination every 3rd year. The processing fee is required to be paid by beverage manufacturers for each beverage container sold or transferred to a dealer. The department is required to set the processing fee to equal 65% of the processing payment that the department pays to processors, but the department is required to reduce the amount of the processing fee, based upon the availability of funds in each materials processing fee account for that beverage material type, so that the amount of the processing fee equals 25% of the processing payment.

Existing law requires the department to deposit the processing fees and an amount of funds equal to 75% of the processing payments in separate processing fee accounts in the fund, and the money in each



processing fee account is continuously appropriated to the department to pay processing payments. A processing fee is not imposed on a PET plastic beverage container if a willing purchaser offers to purchase empty plastic beverage containers at a voluntary artificial scrap value, as defined, that, when combined with specified payments, is equal to or less than the recycling cost.

This bill would require the department to calculate the processing payments for 2003, based on the January 1, 2002, recycling costs, ~~as adjusted for inflation~~, and to determine the actual costs for certified recycling centers, on and after January 1, 2004, every second year, as annually adjusted for inflation.

The bill would delete the requirement that the department reduce the amount of the processing fee to equal 25% of the processing payment, and would instead require that the processing fee be reduced to a specified percentage of the processing payment, based on the recycling rate of that container type. The bill would also revise the amount of funds that the department is required to deposit in the separate processing fee accounts in accordance with the changes made by the bill, thereby making an appropriation. The bill would prescribe the recycling costs for non-PET plastic containers for the January 1, 2002, calculation of the processing fee.

The bill would authorize the department to adjust the amount of the processing payment not more than once every 3 months, if the department makes certain determinations.

This bill would revise the definition of voluntary artificial scrap value and would instead prohibit the imposition of a processing fee on PET plastic containers, or HDPE plastic containers, as defined, if a willing purchaser offers to purchase empty PET or HDPE containers at a voluntary artificial scrap value that is equal to the reduced processing fee when applied to all containers sold.

The bill would require the department to establish a supplemental processing payment that would be paid by the department to a processor, who would be required to pay that amount to a recycling center. The bill would authorize a recycling center to receive a supplemental processing payment if the recycling center receives processing payments and would require those supplemental processing payments to be based on the volume of redeemed containers subject to that supplemental processing fee that the recycling center reports for each whole month, commencing on or before 20 days after the effective date of this bill and continuing for a period of 12 consecutive months.



The bill would specify the amount of the supplemental processing payments for glass, PET plastic containers, and HDPE plastic containers. The bill would require a recycling center to report to a processor the volume of redeemed containers subject to the supplemental processing payments. The bill would require the department to pay the supplemental processing payments on eligible redeemed containers to processors in the same manner as it pays refund values, except as specified.

~~(5)~~

(6) Existing law requires the department to pay a total of \$23,500,000 annually in handling fees to supermarket sites and certain recyclers to provide an incentive to redeem beverage containers, and requires, as a condition of eligibility for these payments, that the site or recycler redeem not less than 60,000 beverage containers during the calendar month in which the handling fee is paid.

This bill would increase to \$26,500,000 the amount the department is required to expend to pay these handling fees from July 1, 2002, to June 30, 2003, and would continue the annual amount of \$23,500,000 on and after July 1, 2003, and annually thereafter. The bill would provide for an alternative handling fee eligibility requirement of redeeming an average of not less than 60,000 beverage containers per month during the previous 12 months.

~~(6)~~

(7) Existing law requires the department to annually expend \$300,000 until January 1, 2003, pursuant to a cooperative agreement with Keep California Beautiful, to conduct a statewide public education campaign. Under the existing program, \$500,000 may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

This bill would extend the date for the statewide public education campaign to January 1, 2004. The bill would increase to \$1,500,000, the sum authorized to be spent annually in the form of grants for beverage container recycling and litter reduction programs, thereby making an appropriation. The bill would authorize the department to spend up to \$10,000,000 annually, until January 1, 2007, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, thereby making an appropriation.

~~(7) Existing law defines “convenience zone” for the purposes of the act and requires that every convenience zone is to be served by at least~~

~~one certified recycling center, with specified operating hours. Existing law requires, if the recycling center consists of reverse vending machines or other unmanned automated equipment, that the equipment be properly functioning, accept all types of empty beverage containers at the recycling location, and pay posted refund values.~~

~~This bill would require the department, on and after the effective date of this bill, until December 31, 2005, to establish a pilot program using supermarket sites that use both reverse vending machines and staffed recycling centers to determine whether or not these recycling centers increase recycling rates. The bill would provide that a recycling center that is a supermarket site and consists of reverse vending machines is open for business for purposes of the act if the department authorizes the supermarket site to participate in the pilot program, pursuant to specified eligibility requirements, and the supermarket site complies with specified operating requirements. The bill would require a supermarket site participating in the pilot program to be operational at least 95% of operable time as defined, to provide a receptacle adjacent to the reverse vending machine for certain types of beverage containers larger than 3 liters, and to be open for business at least 20 hours per week.~~

~~The bill would require a supermarket site participating in the pilot project to be open for business for at least 30 hours each week if the department determines that the volume of beverage containers redeemed at the supermarket site has decreased by a specified amount, unless the department makes a specified determination.~~

~~The bill would require the department to monitor the volume of beverage containers redeemed at each supermarket site participating in the pilot program at least once every 3-month period, and to conduct an annual review of each supermarket site participating in the pilot program.~~

~~The bill would repeal the authorization for the pilot program January 1, 2006, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends that date.~~

~~The bill would require the department to report to the Governor and Legislature on the effectiveness of the pilot program and make recommendations.~~

~~The bill would also impose operating requirements upon all recycling centers that consist of reverse vending machines.~~

~~(8) The bill would allow the transfer of up to \$80,000,000 from the California Beverage Container Recycling Fund to the General Fund for~~

fiscal year 2003–04, upon the written approval of the Director of Finance. The bill would provide that the transfer is a loan to the General Fund and would require the loan to be fully repaid in a specified manner by June 30, 2010.

The bill would also allow the transfer of up to \$100,000,000 annually from the California Beverage Container Recycling Fund to the General Fund for fiscal year 2004–05 and fiscal year 2005–06 upon the written approval of the Director of Finance. The bill would prohibit the Director of Finance from transferring those funds unless the Director of Conservation determines that the amount of the transfer will not affect the ability of the Department of Conservation to make the expenditures specified in the act. The bill would provide that these transfers are a loan to the General Fund and would require the amount transferred for fiscal year 2004–05 to be fully repaid by June 30, 2011, and the amount transferred for fiscal year 2005–06 to be fully repaid, in a specified manner.

The bill would also allow a loan made pursuant to these provisions to be transferred back to the California Beverage Container Recycling Fund in an amount necessary to provide operating funds for support of the act.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

~~(9)~~

(10) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14513.5 is added to the Public
- 2 Resources Code, to read:
- 3 14513.5. “HDPE” means a plastic beverage container
- 4 labeled with a “2” for high-density-polyethylene resin pursuant
- 5 to Section 18015 and subject to this division.
- 6 SEC. 2. Section 14528.1 of the Public Resources Code is
- 7 amended to read:



1 14528.1. “Voluntary artificial scrap value” means a price
2 paid by a willing purchaser of empty PET or HDPE containers,
3 that reflects the payment of the scrap value for all PET or HDPE
4 containers sold, and that, when combined with payments made
5 from the PET or HDPE processing fee account pursuant to clause
6 (ii) of subparagraph (A) of paragraph (6) of subdivision (a) of
7 Section 14581, is equal to, or more than, the recycling cost for
8 empty PET or HDPE containers, as determined in subdivision (d)
9 of Section 14575.

10 SEC. 3. Section 14549 of the Public Resources Code is
11 amended to read:

12 14549. (a) Every glass container manufacturer shall report to
13 the department each month, by a method as determined by the
14 department, the amount of total tons of new glass food, drink, and
15 beverage containers made in California by that glass container
16 manufacturer and the tons of California postfilled glass used in the
17 manufacturing of those new containers.

18 (b) Each glass container manufacturer in the state shall use a
19 minimum percentage of 35 percent of postfilled glass in the
20 manufacturing of their glass food, drink, or beverage containers
21 measured in the aggregate, on an annual basis, except that if a glass
22 container manufacturer demonstrates to the satisfaction of the
23 department that its use of postfilled glass during the annual period
24 is made up of at least 50 percent mixed-color cullet, then that
25 manufacturer shall use a minimum percentage of 25 percent
26 postfilled glass in the manufacturing of its glass food, drink, or
27 beverage containers, measured in the aggregate, on an annual
28 basis.

29 (c) A glass container manufacturer may seek a reduction or
30 waiver of the minimum postfilled glass percentage required to be
31 used in the manufacture of glass food, drink, or beverage
32 containers pursuant to subdivision (b). The department may grant
33 a reduction or waiver of the percentage requirement if it finds and
34 determines that it is technologically infeasible for the glass
35 container manufacturer to achieve the percentage requirement or
36 if the department determines that a glass container manufacturer
37 cannot achieve the minimum percentage because of a lack of
38 available glass cullet.

39 (d) For the purposes of this section, “mixed-color cullet”
40 means cullet that does not meet the American Society for Testing

1 and Materials (ASTM) standard specifications for color mix of
2 color sorted postfilled glass as raw material for the manufacture of
3 glass containers.

4 SEC. 4. Section 14549.1 of the Public Resources Code is
5 amended to read:

6 14549.1. In order to improve the quality and marketability of
7 glass containers collected for recycling in the state by curbside
8 recycling programs, the department may, consistent with Section
9 14581 and subject to the availability of funds, pay a quality glass
10 incentive payment to either an operator of a curbside recycling
11 program registered pursuant to Section 14551.5, or to any other
12 entity certified pursuant to this division, that color-sorts glass
13 beverage containers for recycling or that processes mixed-color
14 cullet to enable glass beverage containers to be utilized in the
15 production of glass containers or fiberglass. The total amount
16 expended by the department pursuant to this section may not
17 exceed three million dollars (\$3,000,000) per calendar year. The
18 department shall make a quality glass incentive payment based on
19 all of the following:

20 (a) The amount of the quality glass incentive payment shall be
21 up to thirty dollars (\$30) per ton *for color-sorted cullet*, and
22 twenty-five dollars (\$25) per ton for quality mixed-color glass
23 beverage containers, as determined by the department.

24 (b) The department shall make a quality glass incentive
25 payment only for color-sorted glass beverage containers that are
26 substantially free of contamination.

27 (c) The department shall make a quality glass incentive
28 payment only for glass beverage containers that meet, at a
29 minimum, one of the following conditions:

30 (1) Are collected color-sorted by curbside recycling programs.

31 (2) Are collected commingled by curbside recycling programs
32 and subsequently color-sorted by the collector or any other entity
33 certified pursuant to this division.

34 (3) Are collected commingled by curbside recycling programs
35 and subsequently processed by a beneficiating processor in order
36 to enable the glass to be utilized in the production of glass
37 containers or fiberglass.

38 (d) Only one payment shall be made for each color-sorted glass
39 beverage container collected.

~~SEC. 5. Section 14549.3 is added to the Public Resources Code, to read:~~

~~14549.3. (a) To increase recycling rates the department may, consistent with Section 14581 and subject to the availability of funds, pay up to three million dollars (\$3,000,000) per fiscal year to make plastic incentive payments to eligible certified entities for the redemption of empty plastic beverage containers. The plastic incentive payment shall be made as determined by the department, and shall be based on all of the following:~~

~~(1) The payment amount shall be calculated every six months based upon the volume of empty plastic beverage containers redeemed by the certified entity during each six-month period, commencing July 1, 2001.~~

~~(2) The per-ton rate shall be calculated by dividing the total volume of empty plastic beverage containers redeemed by all eligible certified entities for each six-month period, as determined by the department, into the sum of one million five hundred thousand dollars (\$1,500,000).~~

~~(3) The amount of the plastic incentive payment to be paid to each certified entity shall be based upon the per-ton rate, calculated pursuant to paragraph (2), multiplied by the certified entity's total reported volume of empty plastic beverage containers redeemed during the six-month period for which those payments are made.~~

~~(b) The department shall pay a plastic incentive payment to an eligible certified entity that increases the average monthly volume of empty plastic beverage containers redeemed in any applicable six-month period by a minimum of 10 percent as compared to the average monthly volume of empty plastic beverage containers redeemed by the certified entity in the immediately preceding six-month period, as determined by the department.~~

~~(c) A certified entity receiving a plastic incentive payment shall make available for inspection and review any relevant record that the department determines is necessary to verify the accuracy of data upon which plastic incentive payments are based and the certified entity's compliance with any applicable regulation.~~

~~(d) For purposes of this section "certified entity" means a recycling center certified pursuant to Section 14538 and a dropoff and collection program certified pursuant to Section 14539.5.~~

~~SEC. 6.~~

SEC. 5. Section 14549.5 of the Public Resources Code is amended to read:

14549.5. On or before ~~February 1, 2003~~ *the 90th day after the effective date of the act amending this section*, and annually thereafter, or more frequently as determined to be necessary by the department, the department shall review and, if necessary in order to ensure payment of the most accurate commingled rate feasible, recalculate commingled rates paid for beverage containers and postfilled containers paid to curbside recycling programs, collection programs, and recycling centers. Prior to recalculating a commingled rate pursuant to this section, the department shall do all of the following:

(a) Consult with private and public operators of curbside recycling programs, collection programs, and recycling centers concerning the size of the statewide sample, appropriate sampling methodologies, and alternatives to exclusive reliance on a statewide commingled rate.

(b) At least 60 days prior to the effective date of any new commingled rate, hold a public hearing, after giving notice, to make available to the public and affected parties the department's review and any proposed recalculations of the commingled rate.

(c) At least 60 days prior to the effective date of any new commingled rate, and upon the request of any party, make available documentation or studies which were prepared as part of the department's review of a commingled rate.

(d) (1) Notwithstanding this division, except as provided in paragraph (4), the department shall calculate a curbside recycling program commingled rate pursuant to this subdivision for bimetal containers and a combined commingled rate for all plastic beverage containers displaying the resin identification code "3," "4," "5," "6," or "7" pursuant to Section 18015.

(2) If the department determines that it is not able to collect an adequate sample size when calculating a curbside commingled rate, the department shall establish a commingled rate and an error rate and publish for curbside programs a refund value per commingled pound based upon the commingled rate minus the calculated error rate.

(3) If the recycling rate, as calculated pursuant to paragraph (3) of subdivision (f) of Section 14575, for any bimetal or plastic resin type subject to the curbside commingled rate established by this

1 subdivision, exceeds 30 percent, the department shall recalculate
2 the curbside commingled rate. The department shall exclude from
3 a recalculated plastic resin curbside commingled rate any resin
4 type that exceeds 30 percent and calculate a separate curbside
5 commingled rate for that resin type.

6 (4) On and after January 1, 2005, the department may not
7 calculate, pursuant to this subdivision, a curbside recycling
8 program commingled rate for bimetal containers and a combined
9 commingled rate for all plastic beverage containers displaying the
10 resin identification code “3,” “4,” “5,” “6,” or “7” pursuant to
11 Section 18015.

12 ~~SEC. 7.~~

13 (5) *The department may enter into a contract for the services*
14 *required to implement the amendments to this section made by the*
15 *act of the first half of the 2003–04 Regular Session of the*
16 *Legislature amending this section. The department may not*
17 *expend more than two hundred fifty thousand dollars (\$250,000)*
18 *for each year of the contract. The contract shall be paid only from*
19 *revenues derived from redemption payments and processing fees*
20 *paid on plastic beverage containers displaying the resin*
21 *identification code “3”, “4”, “5”, “6”, or “7” pursuant to*
22 *Section 18015. If the department determines that insufficient funds*
23 *will be available from these revenues, after refund values are paid*
24 *to processors and the reduction is made in the processing fee*
25 *pursuant to subdivision (f) of Section 14575 for these containers,*
26 *the department is not required to calculate a commingled rate*
27 *pursuant to this subdivision.*

28 SEC. 6. Section 14549.6 of the Public Resources Code is
29 amended to read:

30 14549.6. (a) The department, consistent with Section 14581
31 and subject to the availability of funds, shall annually pay a total
32 of fifteen million dollars (\$15,000,000) per fiscal year to operators
33 of curbside programs and neighborhood dropoff programs that
34 accept all types of empty beverage containers for recycling. The
35 payments shall be for each container collected by the curbside or
36 neighborhood dropoff programs and properly reported to the
37 department by processors, based upon all of the following:

38 (1) The payment amount shall be calculated based upon the
39 volume of beverage containers collected by curbside and
40 neighborhood dropoff programs during the 12-month calendar

1 year ending on December 31 of the fiscal year for which payments
2 are to be made.

3 (2) The per-container rate shall be calculated by dividing the
4 total volume of beverage containers collected, as determined
5 pursuant to paragraph (1), into the sum of fifteen million dollars
6 (\$15,000,000).

7 (3) The amount to be paid to each operator of a curbside and
8 neighborhood dropoff program shall be based upon the
9 per-container rate, calculated pursuant to paragraph (2),
10 multiplied by the curbside program's total reported beverage
11 container volume calculated pursuant to paragraph (1).

12 (b) The amounts paid pursuant to this section shall be expended
13 by operators of curbside and neighborhood dropoff programs only
14 for activities related to beverage container recycling.

15 (c) The department shall disburse payments pursuant to this
16 section not later than the end of the fiscal year following the
17 calendar year for which the payments are calculated pursuant to
18 paragraph (1) of subdivision (a), subject to the availability of
19 funds.

20 (d) The operator of a curbside program or neighborhood
21 dropoff program shall make available for inspection and review
22 any relevant record that the department determines is necessary to
23 verify compliance with this section.

24 ~~SEC. 8.—~~

25 *SEC. 7.* Section 14552.5 of the Public Resources Code is
26 amended to read:

27 14552.5. (a) The department shall supply all certified
28 processors with a standardized rejection form that shall include,
29 but not be limited to, the name of the parties rejecting the postfilled
30 beverage container material, the date of the rejections, the reasons
31 for the rejections, the amount of rejected material, and a detailed
32 accounting of the steps taken by the processor and container
33 manufacturer to avert landfilling or disposal of the material, as
34 required by subdivision (c) of Section 14552.51.

35 (b) Every container manufacturer shall fill out the standardized
36 rejection form specified in subdivision (a) whenever that container
37 manufacturer rejects a load of redeemed beverage container
38 materials physically delivered to the manufacturer's place of
39 business and offered for sale by a certified processor. The rejection
40 form shall be filled out by the container manufacturer at the time

1 of the rejection and immediately given to the certified processor
2 for submittal to the department. Any container manufacturer who
3 refuses to fill out the standardized rejection form required by this
4 subdivision is in violation of this division and is subject to the fines
5 and penalties in Sections 14591 and 14591.1.

6 (c) If a processor has made a good faith effort, as determined
7 by the department, to locate a willing purchaser and is
8 unsuccessful, the processor may fill out the standardized rejection
9 form specified in subdivision (a) and submit it to the department.
10 The processor rejection form shall include, but is not limited to, the
11 name of the processor, the container manufacturers and other
12 potential purchasers contacted, a detailed accounting of the
13 methods used to contact the potential buyers, the date of the
14 rejections, the reasons given for the rejections, the amount of
15 postfilled beverage container material rejected, and any other steps
16 taken to avert landfilling or disposal of the material.

17 (d) If a container manufacturer rejects a load of postfilled
18 containers by telephone, written correspondence of any kind, or
19 other similar method, the container manufacturer shall, in a
20 manner prescribed by the department, keep accurate logbooks of
21 the offer of loads by the certified processor, and make that logbook
22 available for inspection by the department upon demand. The
23 logbook shall contain, but is not limited to, the same information
24 required in the rejection form pursuant to subdivision (a).

25 (e) The standardized rejection form specified in subdivision (a)
26 shall be submitted to the department by the certified processor with
27 the written request to dispose of the redeemed material submitted
28 pursuant to Section 14552.51. This material shall not be disposed
29 of without a written authorization to do so by the department
30 pursuant to Section 14552.51.

31 (f) Nothing in this section shall be interpreted to lessen certified
32 processors' and container manufacturer's responsibilities relating
33 to beverage container recycling, or diminish in any way the
34 department's authority to carry out the intent and goals of this
35 division.

36 ~~SEC. 9.~~

37 *SEC. 8.* Section 14552.51 of the Public Resources Code is
38 amended to read:

39 14552.51. (a) A certified processor seeking to dispose of
40 rejected postfilled containers may not dispose of rejected

postfilled containers unless the certified processor first submits to the department, in writing, a request to dispose of the rejected material. No certified processor shall dispose of the rejected material prior to obtaining written permission from the department. If the department fails to respond to a written request to dispose of rejected postfilled beverage container materials within 10 days of receipt of the request, the processor's request for disposal is deemed approved by the department.

(b) All rejected loads of postfilled containers shall be available and subject to inspection by the department.

(c) All possible steps to avert the disposal of the loads of postfilled containers, as determined by the department, shall be taken by all container manufacturers and processors. All transactions or attempted transactions involving rejecting postfilled containers shall be thoroughly documented on the standardized rejection form pursuant to Section 14552.5. The container manufacturer and the certified processor are jointly and severally responsible for this effort.

~~SEC. 10. Section 14571 of the Public Resources Code is amended to read:~~

~~14571. (a) Except as otherwise provided in this chapter, there shall be at least one certified recycling center or location within every convenience zone which accepts and pays the refund value, if any, at one location for all types of empty beverage containers and is open for business during at least 30 hours per week with a minimum of five hours of operation occurring during periods other than from Monday to Friday, from 9 a.m. to 5 p.m.~~

~~(b) (1) Notwithstanding subdivision (a), the department may require a certified recycling center to operate 15 of its 30 hours of operation other than during 9 a.m. to 5 p.m.~~

~~(2) Notwithstanding subdivision (a) and paragraph (1), the department may certify a recycling center that will operate less than 30 hours per week, if all of the following conditions are met:~~

~~(A) The recycling center is in a rural region. For purposes of this subparagraph, "rural region" means a nonurban area identified by the department on an annual basis using Farmers Home Loan Administration criteria. Those criteria include, but are not limited to, places, open country, cities, towns, or census designated places with populations that are less than 10,000 persons. The department may designate an area with a population~~

1 of between 10,000 and 50,000 persons as a rural region, unless the
2 area is identified as part of, or associated with, an urban area, as
3 determined by the department on an individual basis.

4 (B) The recycling center agrees to post a sign indicating the
5 location of the nearest recycling center which is open at least 30
6 hours per week and which will accept all material types.

7 (C) The needs of the community and the goals of this division
8 will be best served by certification of the operation as a recycling
9 center.

10 (e) Before establishing operating hours for a certified recycling
11 center pursuant to subdivision (b), the department shall make a
12 determination that this action is necessary to further the goals of
13 this division and that the proposed operating hours will not
14 significantly decrease the ability of consumers to conveniently
15 return beverage containers for the refund value to a certified
16 recycling center redeeming all material types.

17 (d) For purposes of this section, if the recycling center is staffed
18 and is not a reverse vending machine, a center is “open for
19 business” if all of the following requirements are met:

20 (1) An employee of the certified recycling center or location is
21 present during the hours of operation and available to the public
22 to accept containers and to pay the refund values.

23 (2) In addition to the sign specified in subdivision (h), a sign
24 having a minimum size of two feet by two feet is posted at the
25 certified recycling center or location indicating that the center or
26 location is open. Where allowed by local zoning requirements or
27 where zoning restrictions apply, the sign shall be of the maximum
28 allowable size.

29 (3) The prices paid, by weight or per container, are posted at the
30 location.

31 (e) Except as provided in subdivision (f), for the purpose of this
32 section, if the recycling center consists of reverse vending
33 machines or other unmanned automated equipment, the center is
34 “open for business” if the equipment is properly functioning,
35 accepting all types of empty beverage containers at the recycling
36 location, and paying posted refund values no less than the
37 minimums required by this division.

38 (f) If a recycling center consists of reverse vending machines
39 or other automated equipment, the recycling center is “open for

business” if the recycling center meets all the following requirements:

(1) The equipment is properly functioning, and accepting all types of empty beverage containers at one physical recycling location within the recycling location.

(2) The operator of the recycling center makes monthly service records available to the department, showing the number of complaints per site, if any, and the response time for each service call.

(3) (A) The recycling center is operational at least 95 percent of operable time.

(B) For purposes of this paragraph “operable time” means the actual operating hours, divided by the total hours the recycling center is required to be open for business each month. The recycling center’s operable hours shall be determined consistent with the operational hours of any supermarket that is the basis of the convenience zone, subject to applicable curfew requirements imposed by local ordinance.

(4) The recycling center site is not inoperative more than once a month, and if that breakdown rate is exceeded, the recycling center replaces the reverse vending machine within three business days.

(5) The operator of the recycling center responds to a complaint of a broken vending machine within five business hours of receiving a notice of a breakdown by a consumer, the dealer, or the department.

(6) The operator of the recycling center provides instructions for use of the reverse vending machine at the recycling center in appropriate languages and in pictorial representations demonstrating how to use the reverse vending machine.

(7) The operator of the recycling center maintains a telephone number during operable time to answer calls from any person regarding the performance of its reverse vending machines.

(8) The operator of the recycling center site has an attendant present at the recycling center site a minimum of 20 hours per week, including no fewer than three hours on a Saturday or a Sunday between the hours of 9 a.m. and 5 p.m. and no fewer than three evening hours between the hours of 5 p.m. and 9 p.m. during one weekday evening.

~~(9) The operator of the recycling center shall post a sign identifying the nearest location of a recycling center that does not consist of reverse vending machines and the hours of operation of that recycling center.~~

~~(g) Whenever a recycling center which is a reverse vending machine is not “open for business” during the 30 hours of operation required and posted pursuant to this section and Section 14570, the dealer which is hosting the reverse vending machine at its place of business shall redeem all empty beverage container types at all open cash registers or one designated location in the store, as specified on the sign required pursuant to subdivision (h).~~

~~(h) In addition to the sign specified in paragraph (2) of subdivision (d), each reverse vending machine shall be posted with a clear and conspicuous sign on or near the reverse vending machine which states that beverage containers may be redeemed by the host dealer if the machine is nonoperational at any time during the required 30 hours of operation, pursuant to subdivision (g). The department shall determine the size and location of the sign and the message required to be printed on the sign.~~

~~SEC. 11. Section 14571.5 is added to the Public Resources Code, to read:~~

~~14571.5. (a) To the extent that existing funds are available for this purpose, the department shall establish a recycling incentive payment for any beverage container type that has a scrap value less than the cost of recycling, as determined under Section 14575.~~

~~(b) The recycling incentive payment shall meet all of the following criteria:~~

~~(1) The amount of the payment shall be equal to three-tenths of a cent (\$0.003) for any beverage container recycled per month that does not exceed the number of beverage containers recycled during the same month in the previous year and equal to seven-tenths of a cent (\$0.007) for each beverage container recycled each month that exceed the number of beverage containers recycled during the same month in the previous year.~~

~~(2) (A) The department shall make a payment only for recycled beverage containers that are of sufficient quality to be utilized by end-use markets.~~

~~(B) For purposes of subparagraph (A), a glass beverage container is of sufficient quality to be utilized by the end-use market if the glass beverage container is determined by a~~

~~beneficiating processor as being of acceptable quality to enable the glass beverage container to be used in the production of glass containers or fiberglass without the need for extraordinary effort by the beneficiating processor.~~

~~(3) The department shall suspend the payments of recycling incentive payments to any recycler whose recycling rate has not increased for any 12-month period during which payments were received.~~

~~(4) The department shall pay the recycling incentive payment to recyclers in a form and manner specified in regulations adopted by the department. The department may adopt emergency regulations to implement this section in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The initial adoption of emergency regulations shall be deemed to be an emergency and considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, or general welfare.~~

~~(5) The department may make recycling incentive payments only to recyclers whose monthly volume of any container type is greater than the monthly average of beverage containers collected by that entity during the preceding 12-month period.~~

~~(e) This section shall become inoperative during any period for which the department determines that processing fees may not be reduced under subdivision (f) of Section 14575.~~

~~SEC. 12.~~

SEC. 9. Section 14560 of the Public Resources Code is amended to read:

14560. (a) (1) Every beverage distributor shall pay the department, for deposit into the fund, a redemption payment of ~~two and one-half cents (\$0.025)~~ *five cents (\$0.05)* for every beverage container sold or offered for sale in this state by the distributor.

(2) A beverage container with a capacity of 24 fluid ounces or more shall be considered as two beverage containers for purposes of redemption payments and refund values.

(b) Except as provided in subdivision (c), every beverage container sold or offered for sale in this state has a minimum refund value of five cents (\$0.05) ~~for every two beverage containers~~

1 ~~redeemed and three cents (\$0.03) for every single or unpaired~~
2 ~~beverage container redeemed in a single transaction.~~

3 (c) Notwithstanding subdivision (b), a ~~single or unpaired~~
4 beverage container of 24 fluid ounces or larger shall have a
5 minimum refund value of ~~five cents (\$0.05)~~ *ten cents (\$0.10)*.

6 (d) (1) The department shall periodically review the fund to
7 ensure that there are adequate funds in the fund to pay refund
8 values and other disbursements required by this division.

9 (2) If the department determines, pursuant to a review made
10 pursuant to paragraph (1), that there may be inadequate funds to
11 pay the refund values and necessary disbursements required by
12 this division, the department shall immediately notify the
13 Legislature of the need for urgent legislative action.

14 (3) On or before 180 days after the notice is sent pursuant to
15 paragraph (2), the department may reduce or eliminate
16 expenditures, or both, from the fund as necessary, according to the
17 procedure set forth in Section 14581, to ensure that there are
18 adequate funds in the fund to pay the refund values and other
19 disbursements required by this division.

20 (e) This section does not apply to any refillable beverage
21 container.

22 (f) The repeal and reenactment of this section by ~~this act~~
23 ~~enacted during the 1999-2000 Regular Session Chapter 815 of the~~
24 ~~Statutes of 1999~~ shall not affect any obligations or penalties
25 imposed by this section, as it read on January 1, 1999.

26 *SEC. 10. Section 14561 of the Public Resources Code is*
27 *amended to read:*

28 14561. (a) ~~(1)~~—A beverage manufacturer shall clearly
29 indicate on every beverage container sold or offered for sale by
30 that beverage manufacturer in this state the message “CA
31 Redemption Value” ~~or~~, “California Redemption Value,” “CA
32 Cash Refund,” “California Cash Refund,” “CA 5c,” or “CA
33 10c” by either printing or embossing the beverage container or by
34 securely affixing a clear and prominent stamp, label, or other
35 device to the beverage container.

36 (2) A beverage manufacturer may affix the message ~~“CA Cash~~
37 ~~Refund,” “California Cash Refund,” or “CA 2.5e 5c,”~~ *only* if the
38 container is less than 24 ounces, ~~or “CA Cash Refund,”~~
39 ~~“California Cash Refund,” or and may affix the message “CA 5~~
40 ~~10c,”~~ *only* if the container is 24 ounces or more, on a beverage

1 container sold or offered for sale by the beverage manufacturer;
2 ~~instead of the message specified in paragraph (1), but the message~~
3 ~~shall be affixed in the manner prescribed in paragraph (1).~~

4 (b) Any refillable beverage container sold or offered for sale is
5 exempt from this section. However, any beverage manufacturer or
6 container manufacturer may place upon, or affix to, a refillable
7 beverage container, any message that the manufacturer determines
8 to be appropriate relating to the refund value of the beverage
9 container.

10 (c) No person shall offer to sell, or sell to a consumer a beverage
11 container subject to subdivision (a) that has not been labeled
12 pursuant to this section, except for a refillable beverage container
13 that is exempt from labeling pursuant to subdivision (b).

14 (d) The department may require that any beverage container
15 intended for sale in this state be printed, embossed, stamped,
16 labeled, or otherwise marked with a universal product code or
17 similar machine-readable indicia.

18 (e) Any beverage container labeled with the message specified
19 in subdivision (a) shall have the minimum redemption payment
20 established pursuant to Section 14560, which shall be paid by the
21 distributor to the department pursuant to Section 14574.

22 ~~(f) To the extent not otherwise authorized by this section, a~~
23 ~~glass beverage container containing noncarbonated fruit drinks~~
24 ~~that contain any percentage of fruit juice, made subject to this~~
25 ~~division pursuant to Chapter 815 of the Statutes of 1999, may~~
26 ~~comply with the requirements of this section by embossing the~~
27 ~~container with the message described in paragraph (1) or (2) of~~
28 ~~subdivision (a).~~

29 ~~(g) Notwithstanding any other requirement of this section, any~~
30 ~~beverage container that is included within the scope of this~~
31 ~~division on January 1, 2000, but that was not subject to this~~
32 ~~division before that date, shall be exempt from the labeling~~
33 ~~requirements of this section until January 1, 2001. However, even~~
34 ~~though these beverage containers are not required to bear the~~
35 ~~message required by this section from January 1, 2000, to January~~
36 ~~1, 2001, inclusive, notwithstanding subdivision (e) of Section~~
37 ~~14512, they shall be considered "empty beverage containers" for~~
38 ~~all of the purposes of this division during that period of time.~~

39 ~~(h) Notwithstanding any other requirement of this section, any~~
40 ~~beverage container that is included within the scope of this~~

~~division on January 1, 2001, but that was not subject to this division before that date, shall be exempt from the labeling requirements of this section until January 1, 2002. However, even though these beverage containers are not required to bear the message required by this section from January 1, 2001, to January 1, 2002, inclusive, notwithstanding subdivision (e) of Section 14512, they shall be considered “empty beverage containers” for all of the purposes of this division during that period of time.~~

SEC. 11. Section 14573.51 of the Public Resources Code is amended to read:

14573.51. (a) Notwithstanding any other provision of this division, recycling centers and processors shall not pay curbside programs more than the applicable statewide average curbside commingled rate unless the curbside program has received an individual commingled rate from the department pursuant to subdivision (b).

(b) The department shall establish a procedure whereby the operators of curbside programs may apply for an individual commingled rate for any material ~~type~~ *or types* with or without a statewide commingled rate, including, but not limited to, glass, aluminum, bimetal, or any of the individual plastic resin types *or combination of resin types* identified by resin identification codes under Section 18015. These procedures shall require, at a minimum, all of the following:

(1) The individual rate shall be valid for no more than one year from the date the individual rate is authorized.

(2) The methodology used by the operator of the curbside program to determine the commingled rate shall be approved by the department, in advance.

(c) Curbside programs that have acquired an individual commingled rate, pursuant to this section, shall not be surveyed by the department to determine the statewide average curbside commingled rate during the period the individual commingled rate is effective.

~~SEC. 13.~~

(d) The department may enter into a contract for the services required to implement the amendments to this section made by the act of the first half of the 2003–04 Regular Session of the Legislature amending this section. The department may not expend more than two hundred fifty thousand dollars (\$250,000)

for each year of the contract. The contract shall be paid only from revenues derived from redemption payments and processing fees paid on plastic beverage containers displaying the resin identification code “3”, “4”, “5”, “6”, or “7” pursuant to Section 18015. If the department determines that insufficient funds will be available from these revenues, after refund values are paid to processors and the reduction is made in the processing fee pursuant to subdivision (f) of Section 14575 for these containers, the department is not required to calculate a commingled rate pursuant to subdivision (b).

SEC. 12. Section 14575 of the Public Resources Code is amended to read:

14575. (a) If any type of empty beverage container with a refund value established pursuant to Section 14560 has a scrap value less than the cost of recycling, the department shall, on January 1, 2000, and on or before January 1 annually thereafter, establish a processing fee and a processing payment for the container by the type of the material of the container.

(b) The processing payment shall be at least equal to the difference between the scrap value offered to a statistically significant sample of recyclers by willing purchasers, and except for the initial calculation made pursuant to subdivision (d), the sum of both of the following:

(1) The actual cost for certified recycling centers, excluding centers receiving a handling fee, of receiving, handling, storing, transporting, and maintaining equipment for, each container sold for recycling or, only if the container is not recyclable, the actual cost of disposal, calculated pursuant to subdivision (c). The department shall determine the statewide weighted average cost to recycle each beverage container type, which shall serve as the actual recycling costs for purposes of paragraphs (2) and (3) of subdivision (c), by conducting a survey of the costs of a statistically significant sample of certified recycling centers, excluding those recycling centers receiving a handling fee, for receiving, handling, storing, transporting, and maintaining equipment.

(2) A reasonable financial return for recycling centers.

(c) The department shall base the processing payment pursuant to this section upon all of the following:

(1) The department shall use the average scrap values paid to recyclers between October 1, 2001, and September 30, 2002, for the 2003 calculation and the same 12-month period directly preceding the year in which the processing fee is calculated for any subsequent calculation.

(2) To calculate the 2003 processing payments, the department shall use the recycling costs for certified recycling centers used to calculate the January 1, 2002, processing payments ~~as adjusted to reflect changes as of January 1, 2003, in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.~~

(3) For calculating processing payments that will be in effect on and after January 1, 2004, the department shall determine the actual costs for certified recycling centers, every second year, pursuant to paragraph (1) of subdivision (b). The department shall adjust the recycling costs annually to reflect changes in the cost of living, as measured by the Bureau of Labor Statistics of the United States Department of Labor or a successor agency of the United States government.

(d) Notwithstanding paragraph (1) of subdivision (b) and subdivision (c), for the purpose of setting the cost for recycling non-PET plastic containers by certified recycling centers, to determine the processing payment for those containers, the department shall use a recycling cost of six hundred forty-two dollars and sixty-nine cents (\$642.69) per ton for the January 1, 2002, calculation of the processing payment.

(e) Except as specified in subdivision (f), the actual processing fee paid by a beverage manufacturer shall equal 65 percent of the processing payment calculated pursuant to subdivision (b).

(f) The department, consistent with Section 14581 and subject to the availability of funds, shall reduce the processing fee paid by beverage manufacturers by expending funds in each material processing fee account, in the following manner:

(1) The processing fee in effect on and after the effective date of the act amending this section, and on January 1, 2004, shall equal the following amounts:

(A) For a container type that was subject to this division on January 1, 1999, 12 percent of the processing payment , if the

1 recycling rate of that container type was equal to, or greater than,
2 60 percent for the 1999 calendar year.

3 (B) For a container type that was not subject to this division on
4 January 1, 1999, 12 percent of the processing payment, if the
5 recycling rate of that container type was equal to, or greater than,
6 60 percent for the 2001 calendar year.

7 (C) For a container type that was not subject to this division on
8 January 1, 1999, 15 percent of the processing payment if the
9 recycling rate for that container type was equal to, or greater than,
10 45 percent, but less than 60 percent for the 2001 calendar year.

11 (D) For a container type that was not subject to this division on
12 January 1, 1999, 20 percent of the processing payment if the
13 recycling rate for that container type was equal to, or greater than,
14 30 percent, but less than 45 percent, for the 2001 calendar year.

15 (2) On January 1, 2005, and annually thereafter, the processing
16 fee shall equal the following amounts:

17 (A) Ten percent of the processing payment for a container type
18 with a recycling rate equal to or greater than 75 percent.

19 (B) Eleven percent of the processing payment for a container
20 type with a recycling rate equal to or greater than 65 percent, but
21 less than 75 percent.

22 (C) Twelve percent of the processing payment for a container
23 type with a recycling rate equal to or greater than 60 percent, but
24 less than 65 percent.

25 (D) Thirteen percent of the processing payment for a container
26 type with a recycling rate equal to or greater than 55 percent, but
27 less than 60 percent.

28 (E) Fourteen percent of the processing payment for a container
29 type with a recycling rate equal to or greater than 50 percent, but
30 less than 55 percent.

31 (F) Fifteen percent of the processing payment for a container
32 type with a recycling rate equal to or greater than 45 percent, but
33 less than 50 percent.

34 (G) Eighteen percent of the processing payment for a container
35 type with a recycling rate equal to or greater than 40 percent, but
36 less than 45 percent.

37 (H) Twenty percent of the processing payment for a container
38 type with a recycling rate equal to or greater than 30 percent, but
39 less than 40 percent.

1 (I) Sixty-five percent of the processing payment for a container
2 type with a recycling rate less than 30 percent.

3 (3) The department shall calculate the recycling rate for
4 purposes of paragraph (2) based on the 12-month period ending on
5 June 30 that directly precedes the date of the January 1 processing
6 fee determination.

7 (g) Not more than once every three months, the department
8 may make an adjustment in the amount of the processing payment
9 established pursuant to this section , notwithstanding any change
10 in the amount of the processing fee established pursuant to this
11 section, for any beverage container, if the department makes all of
12 the following determinations:

13 (1) The statewide scrap value paid by processors for the
14 material type for the most recent available 12-month period
15 directly preceding the quarter in which the processing payment is
16 to be adjusted is 5 percent more or 5 percent less than the average
17 scrap value used as the basis for the processing payment currently
18 in effect.

19 (2) Funds are available in the processing fee account for the
20 material type.

21 (3) Adjusting the processing payment is necessary to further
22 the objectives of this division.

23 (h) (1) Except as provided in paragraphs (2) and (3), every
24 beverage manufacturer shall pay to the department the applicable
25 processing fee for each container sold or transferred to a distributor
26 or dealer within 40 days of the sale in the form and in the manner
27 which the department may prescribe.

28 (2) (A) Notwithstanding Section 14506, with respect to the
29 payment of processing fees for beer and other malt beverages
30 manufactured outside the state, the beverage manufacturer shall be
31 deemed to be the person or entity named on the certificate of
32 compliance issued pursuant to Section 23671 of the Business and
33 Professions Code. If the department is unable to collect the
34 processing fee from the person or entity named on the certificate
35 of compliance, the department shall give written notice by
36 certified mail to that person or entity. The notice shall state that the
37 processing fee shall be remitted in full within 30 days of issuance
38 of the notice or the person or entity shall not be permitted to offer
39 that beverage brand for sale within the state. If the person or entity
40 fails to remit the processing fee within 30 days of issuance of the

1 notice, the department shall notify the Department of Alcoholic
2 Beverage Control that the certificate holder has failed to comply,
3 and the Department of Alcoholic Beverage Control shall prohibit
4 the offering ~~or~~ for sale of that beverage brand within the state.

5 (B) The department shall enter into a contract with the
6 Department of Alcoholic Beverage Control, pursuant to Section
7 14536.5, concerning the implementation of this paragraph, which
8 shall include a provision reimbursing the Department of Alcoholic
9 Beverage Control for its costs incurred in implementing this
10 paragraph.

11 (3) (A) Notwithstanding paragraph (1), a beverage
12 manufacturer may, upon the approval of the department, elect to
13 make a single annual payment of processing fees, if the beverage
14 manufacturer's projected processing fees for a calendar year total
15 less than one thousand dollars (\$1,000).

16 (B) An annual processing fee payment made pursuant to this
17 paragraph is due and payable on or before February 1 for every
18 beverage container sold or transferred by the beverage
19 manufacturer to a distributor or dealer in the previous calendar
20 year.

21 (C) A beverage manufacturer shall notify the department of its
22 intent to make an annual processing fee payment pursuant to this
23 paragraph on or before January 31 of the calendar year preceding
24 the year in which the payment will be due.

25 (4) The department shall pay the processing payments on
26 redeemed containers to processors, in the same manner as it pays
27 refund values pursuant to Sections 14573 and 14573.5. The
28 processor shall pay the recycling center the entire processing
29 payment representing the actual cost and financial return incurred
30 by the recycling center, as specified in subdivision (b).

31 (i) When assessing processing fees pursuant to subdivision (a),
32 the department shall assess the processing fee on each container
33 sold, as provided in subdivisions (e) and (f), by the type of material
34 of the container, assuming that every container sold will be
35 redeemed for recycling, whether or not the container is actually
36 recycled.

37 (j) The container manufacturer, or a designated agent, shall pay
38 to, or credit, the account of the beverage manufacturer in an
39 amount equal to the processing fee.

(k) If, at the end of any calendar year for which glass recycling rates equal or exceed 45 percent and surplus funds remain in the glass processing fee account or if, at the end of any calendar year for which PET recycling rates equal or exceed 45 percent and surplus funds remain in the PET processing fee account, the department may use these surplus funds in the respective processing fee accounts in the following calendar year to reduce the amount of the processing fee that would otherwise be due from glass or PET beverage manufacturers pursuant to this subdivision.

(1) The department shall reduce the glass or PET processing fee amount pursuant to this subdivision in addition to any reduction for which the glass or PET beverage container qualifies under subdivision (g).

(2) The department shall determine the processing fee reduction by dividing two million *dollars* (\$2,000,000) from each processing fee account by an estimate of the number of containers sold or transferred to a distributor during the previous calendar year, based upon the latest available data.

~~SEC. 14.~~

SEC. 13. Section 14575.1 of the Public Resources Code is amended to read:

14575.1. (a) Notwithstanding subdivision (b) of Section 14575, if a willing purchaser offers to purchase empty PET or HDPE containers at a voluntary artificial scrap value that is equal to the processing fee reduced pursuant to subdivision (f) of Section 14575 when applied to all containers sold, no processing fee shall be imposed on PET or HDPE containers pursuant to Section 14575.

(b) If a willing purchaser offers to pay a voluntary artificial scrap value, the department shall, on a monthly basis, determine whether the sum of the voluntary artificial scrap value and payments made from the PET or HDPE Processing Fee Account pursuant to subdivision (f) of Section 14575, are equal to, or more than, the recycling cost for empty PET or HDPE containers determined pursuant to subdivision (d) of Section 14575.

(c) If the department determines that, for any monthly period, the sum of the voluntary artificial scrap value and payments made from the PET or HDPE Processing Fee Account pursuant to subdivision (f) of Section 14575, is less than the recycling cost for

empty PET or HDPE containers, determined pursuant to Section 14575, the following requirements shall apply:

(1) The department shall immediately provide written notification of the deficiency for that monthly period and the amount of that deficiency to any willing purchaser.

(2) A willing purchaser shall correct the deficiency in the next monthly period by adjusting the voluntary artificial scrap value by an amount sufficient to equal the recycling cost for empty PET or HDPE containers plus the previous monthly period's deficiency.

(3) If the deficiency and amount in arrears is not corrected within 30 days of providing written notice to willing purchasers of empty PET or HDPE containers, the department shall impose a processing fee pursuant to Section 14575 which includes any amount necessary, including any amount in arrears, to cover the cost of recycling empty PET or HDPE containers.

(d) If the department determines that, for any monthly period, the sum of the voluntary artificial scrap value and payments made from the PET or HDPE Processing Fee Account pursuant to subdivision (f) of Section 14575, is greater than the recycling cost for empty PET or HDPE containers, the department shall do both of the following:

(1) Immediately provide written notification of the deviation for that monthly period and the amount of that deviation to any willing purchaser.

(2) Provide a credit equal to the amount of the deviation for any future monthly period wherein the voluntary artificial scrap value, and payments made from the PET or HDPE Processing Fee Account, are less than the recycling cost of empty PET or HDPE containers determined pursuant to subdivision (d) of Section 14575.

(e) Nothing in this section is intended to affect any litigation that was pending on January 1, 1996, in which the department is a party of record.

~~SEC. 15. Section 14576 is added to the Public Resources Code, to read:~~

~~14576. (a) On and after the effective date of the act adding this section, until December 31, 2005, the department shall establish a pilot program using supermarket sites that use both reverse vending machines and staffed recycling centers to determine whether or not these recycling centers increase~~

1 ~~recycling rates and provide greater convenience and ease of use for~~
2 ~~consumers.~~

3 ~~(b) The pilot program shall comply with all of the following~~
4 ~~criteria:~~

5 ~~(1) The program shall consist of not more than 50 supermarket~~
6 ~~sites that represent a valid statistical sampling of the state, as~~
7 ~~determined by the department.~~

8 ~~(2) Each dealer where the supermarket site is located certifies~~
9 ~~to the department in writing that it has authorized the recycling~~
10 ~~center to participate in the pilot program.~~

11 ~~(3) Each supermarket site in the pilot program has at least two~~
12 ~~reverse vending machines that accept all types of beverage~~
13 ~~containers, except those beverage containers that are labeled with~~
14 ~~a “2,” as specified in subdivision (a) of Section 18015 and are~~
15 ~~larger than three liters.~~

16 ~~(4) The department authorizes each supermarket site as being~~
17 ~~a site suitable for inclusion in the pilot program based upon the~~
18 ~~volume of beverage containers recycled and the volume of~~
19 ~~beverage containers recycled through reverse vending machines.~~

20 ~~(c) Each supermarket site participating in the pilot program~~
21 ~~shall comply with all of the following requirements:~~

22 ~~(1) The supermarket site is inspected by the operator that~~
23 ~~participates in the pilot program at least once each day to maintain~~
24 ~~the machines, merchandise the material, and ensure that the site is~~
25 ~~kept clean.~~

26 ~~(2) The supermarket site makes monthly service records~~
27 ~~available to the department, showing the number of complaints per~~
28 ~~site, if any, and the response time for each service call.~~

29 ~~(3) (A) The supermarket site is operational at least 95 percent~~
30 ~~of operable time.~~

31 ~~(B) For purposes of this paragraph, “operable time” means the~~
32 ~~actual operating hours, divided by the total hours the supermarket~~
33 ~~site is required to be open for business each month. A supermarket~~
34 ~~site’s operable hours shall be determined consistent with the~~
35 ~~supermarket’s operational hours, subject to applicable curfew~~
36 ~~requirements imposed by local ordinance.~~

37 ~~(4) The supermarket site is not inoperative more than once a~~
38 ~~month, and if that breakdown rate is exceeded, the supermarket~~
39 ~~site replaces the reverse vending machine within three business~~
40 ~~days.~~

1 ~~(5) The supermarket site responds to a complaint of a broken~~
2 ~~vending machine within five business hours of receiving a notice~~
3 ~~of a breakdown by a consumer, the dealer, or the department.~~

4 ~~(6) The supermarket site provides a receptacle adjacent to the~~
5 ~~reverse vending machine for beverage containers that are labeled~~
6 ~~with a “2,” as specified in subdivision (a) of Section 18015, and~~
7 ~~that are larger than three liters. This receptacle shall meet both of~~
8 ~~the following requirements:~~

9 ~~(A) Provide clear instructions as to its purpose in the major~~
10 ~~languages spoken within that community, as determined by the~~
11 ~~United States Census Bureau.~~

12 ~~(B) State the hours in which a consumer may return the~~
13 ~~container to the site and receive a redemption payment.~~

14 ~~(7) The operator of the supermarket site has an attendant~~
15 ~~present at the supermarket site a minimum of 20 hours per week,~~
16 ~~including no fewer than three hours on a Saturday or a Sunday~~
17 ~~between the hours of 9 a.m. and 5 p.m. and no fewer than three~~
18 ~~evening hours between the hours of 5 p.m. and 9 p.m. during one~~
19 ~~weekday evening.~~

20 ~~(8) The operator of the supermarket site provides instructions~~
21 ~~for use of the reverse vending machine at the supermarket site in~~
22 ~~appropriate languages and in pictorial representations~~
23 ~~demonstrating how to use the reverse vending machine.~~

24 ~~(9) The operator of the supermarket site maintains a telephone~~
25 ~~number during operable time to answer calls from any person~~
26 ~~regarding the performance of its reverse vending machine.~~

27 ~~(10) The operator of the supermarket site shall post~~
28 ~~information identifying the location of the nearest certified~~
29 ~~recycling center.~~

30 ~~(d) If the department determines that the total volume of~~
31 ~~beverage containers redeemed at a supermarket site authorized to~~
32 ~~participate in the pilot program decreases by more than 10 percent~~
33 ~~from the volume reported for the prior year, the supermarket site~~
34 ~~shall be staffed for at least 30 hours per week, unless the~~
35 ~~department determines that the site may continue staffed~~
36 ~~operations for at least 20 hours per week.~~

37 ~~(e) (1) The department shall monitor the volume of beverage~~
38 ~~containers redeemed at each supermarket site participating in the~~
39 ~~pilot program at least once every three-month period.~~

~~(2) The department shall conduct an annual review of each supermarket site participating in the pilot program to determine overall performance and make operational adjustments.~~

~~(3) The department shall disqualify an individual site from participation in the pilot program, effective within seven calendar days of notice provided to the operator, upon a determination that the continued operation of the supermarket site within the pilot program does not further the goals of the division.~~

~~(4) The department shall, upon the written request of the dealer at the supermarket site and within seven calendar days of the request made by the dealer to the department, disqualify the operator for further participation in the pilot program at that supermarket site.~~

~~(f) The department may adopt emergency regulations to implement this section. Any emergency regulations, if adopted, shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.~~

~~(g) Notwithstanding Sections 14570 and 14571, a supermarket site that consists of reverse vending machines is “open for business” within the meaning of this section if the supermarket site is approved by the department to participate in the pilot program pursuant to paragraph (4) of subdivision (b) and the supermarket site complies with the operating requirements specified in subdivision (e).~~

~~(h) Notwithstanding subdivision (g) of Section 14571, if a supermarket site is inoperable during its operable time, the dealer at the supermarket site shall not be required to redeem any empty beverage containers.~~

~~(i) On or before July 1, 2005, the department shall report to the Governor and Legislature on the effectiveness of the pilot program and make recommendations on whether the program should be continued, expanded, or modified to ensure compliance with this division.~~

~~(j) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.~~

~~SEC. 16.~~

SEC. 14. Section 14575.5 is added to the Public Resources Code, to read:

14575.5. (a) The department shall establish a supplemental processing payment to be paid to a processor. The processor shall pay the entire supplemental processing payment to a recycling center that receives processing payments pursuant to Section 14575. The department shall determine the supplemental processing payment based on the volume of redeemed containers that the recycling center reports for each whole month pursuant to subdivision (b), commencing on or before 20 days after the effective date of the act adding this section and continuing for a period of 12 consecutive months.

(1) Consistent with Section 14581 and subject to the availability of funds, the department shall establish a supplemental processing payment for glass, PET plastic containers, and HDPE plastic containers as follows:

(A) Forty dollars and eighty-six cents (\$40.86) for each ton of glass beverage containers.

(B) One hundred eighty-two dollars and fifty-four cents (\$182.54) or each ton of PET plastic beverage containers.

(C) Two hundred twenty-eight dollars and seventy-five cents (\$228.75) for each ton of HDPE plastic beverage containers.

(2) The department may not make a supplemental processing payment to a recycling center for any volume reported for a whole month that is not within the 12-month consecutive time period established in subdivision (a).

(b) A recycling center shall report to a processor the volume of redeemed containers subject to the supplemental processing payments established pursuant to paragraph (1) of subdivision (a) no later than the 10th day following the end of the 12-month period established in subdivision (a).

(c) The department shall pay the supplemental processing payments on eligible redeemed containers to processors, in the same manner as it pays refund values pursuant to Sections 14573 and 14573.5, except that paragraph (2) of subdivision (a) of Section 14573.5 is not applicable. The processor shall pay a

1 *recycling center the entire supplemental processing payment as*
2 *specified in subdivision (a).*

3 SEC. 15. Section 14581 of the Public Resources Code is
4 amended to read:

5 14581. (a) Subject to the availability of funds, and pursuant
6 to subdivision (c), the department shall expend the money set aside
7 in the fund, pursuant to subdivision (c) of Section 14580 for the
8 purposes of this section:

9 (1) ~~Twenty-three~~ (A) *On and after July 1, 2002, until June 30,*
10 *2003, twenty-six million five hundred thousand dollars*
11 *(\$26,500,000) shall be expended for the payment of handling fees*
12 *required pursuant to Section 14585.*

13 (B) *On and after July 1, 2003, twenty-three million five*
14 *hundred thousand dollars (\$23,500,000) shall be expended*
15 *annually for the payment of handling fees required pursuant to*
16 *Section 14585.*

17 (2) Fifteen million dollars (\$15,000,000) shall be expended
18 annually for payments for curbside programs and neighborhood
19 dropoff programs pursuant to Section 14549.6.

20 (3) (A) Fifteen million dollars (\$15,000,000), plus the
21 proportional share of the cost-of-living adjustment, as provided in
22 subdivision (b), shall be expended annually in the form of grants
23 for beverage container litter reduction programs and recycling
24 programs issued to either of the following:

25 (i) Certified community conservation corps that were in
26 existence on September 30, 1999, or that are formed subsequent
27 to that date, that are designated by a city or a city and county to
28 perform litter abatement, recycling, and related activities, if the
29 city or the city and county has a population, as determined by the
30 most recent census, of more than 250,000 persons.

31 (ii) Community conservation corps that are designated by a
32 county to perform litter abatement, recycling, and related
33 activities, and are certified by the California Conservation Corps
34 as having operated for a minimum of two years and as meeting all
35 other criteria of Section 14507.5.

36 (B) Any grants provided pursuant to this paragraph shall not
37 comprise more than 75 percent of the annual budget of a
38 community conservation corps.

39 (4) (A) Ten million five hundred thousand dollars
40 (\$10,500,000) may be expended annually for payments of five

1 thousand dollars (\$5,000) to cities and ten thousand dollars
2 (\$10,000) for payments to counties for beverage container
3 recycling and litter cleanup activities, or the department may
4 calculate the payments to counties and cities on a per capita basis,
5 and may pay whichever amount is greater, for those activities.

6 (B) Eligible activities for the use of these funds may include,
7 but are not necessarily limited to, support for new or existing
8 curbside recycling programs, neighborhood dropoff recycling
9 programs, public education promoting beverage container
10 recycling, litter prevention, and cleanup, cooperative regional
11 efforts among two or more cities or counties, or both, or other
12 beverage container recycling programs.

13 (C) These funds may not be used for activities unrelated to
14 beverage container recycling or litter reduction.

15 (D) To receive these funds, a city, county, or city and county
16 shall fill out and return a funding request form to the Department
17 of Conservation. The form shall specify the beverage container
18 recycling or litter reduction activities for which the funds will be
19 used.

20 (E) The Department of Conservation shall annually prepare
21 and distribute a funding request form to each city, county, or city
22 and county. The form shall specify the amount of beverage
23 container recycling and litter cleanup funds for which the
24 jurisdiction is eligible. The form shall not exceed one double-sided
25 page in length, and may be submitted electronically. If a city,
26 county, or city and county does not return the funding request form
27 within 90 days of receipt of the form from the department, the city,
28 county, or city and county is not eligible to receive the funds for
29 that funding cycle.

30 (F) For the purposes of this paragraph, per capita population
31 shall be based on the population of the incorporated area of a city
32 or city and county and the unincorporated area of a county. The
33 department may withhold payment to any city, county, or city and
34 county that has prohibited the siting of a supermarket site, caused
35 a supermarket site to close its business, or adopted a land use policy
36 that restricts or prohibits the siting of a supermarket site within its
37 jurisdiction.

38 (5) (A) One million five hundred thousand dollars
39 (\$1,500,000) may be expended annually in the form of grants for
40 beverage container recycling and litter reduction programs.

(B) Up to a total of six million eight hundred forty thousand dollars (\$6,840,000) shall be paid to the City of San Diego, between January 1, 2000, and January 1, 2004, for a curbside recycling program conducted pursuant to Section 14549.7.

(6) (A) The department shall expend the amount necessary to pay the processing payment *and supplemental processing payment* established pursuant to ~~Section 14575~~ *Sections 14575 and 14575.5*. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee is calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited both of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to Section 14575.

~~(ii) Funds equal to pay the balance of the processing payments established in subdivision (b) of Section 14575 and adjusted pursuant to paragraphs (2) and (3) of subdivision (c) of, and subdivision (f) of, Section 14575, in order to reduce the processing fee to the level provided in subdivision (f) of Section 14575 or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.~~

(ii) Funds to ensure an adequate balance in each processing fee account to pay the processing payments established in subdivision (b) of Section 14575 and adjusted pursuant to paragraphs (2) and (3) of subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (f) of Section 14575 or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1, and to pay the supplemental processing payments established in Section 14575.5.

(B) Notwithstanding Section 13340 of the Government Code, the money in each processing fee account is hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments *and supplemental processing payments*, and reducing processing fees, pursuant to ~~Section 14575~~ *Sections 14575 and 14575.1*.

(7) Up to ten million dollars (\$10,000,000) shall be expended by the department between January 1, 2000, and January 1, 2002,

1 for the purposes of undertaking a statewide public education and
2 information campaign aimed at promoting increased recycling of
3 beverage containers.

4 (8) Up to three million dollars (\$3,000,000) shall be expended
5 annually for the payment of quality glass incentive payments
6 pursuant to Section 14549.1.

7 (9) (A) Three hundred thousand dollars (\$300,000) shall be
8 expended annually by the department, until January 1, 2004,
9 pursuant to a cooperative agreement entered into between the
10 department and Keep California Beautiful, a nonprofit 501(c)(3)
11 organization chartered by the State of California in 1990, for the
12 purpose of conducting statewide public education campaigns
13 aimed at preventing and cleaning up beverage containers and
14 related litter. The campaigns shall include, but not be limited to,
15 coordination of Keep California Beautiful month.

16 (B) Prior to making an expenditure pursuant to this paragraph,
17 the department shall enter into a cooperative agreement with Keep
18 California Beautiful.

19 (C) As part of the cooperative agreement, Keep California
20 Beautiful shall provide the department with an annual campaign
21 plan and budget, and a report of previous year campaign activities.

22 ~~(10) Up to three million dollars (\$3,000,000) may be annually~~
23 ~~expended by the department from the PET plastic processing fee~~
24 ~~account for the payment of plastic incentive payments pursuant to~~
25 ~~Section 14549.3.~~

26 ~~(11)~~

27 (10) Up to ten million dollars (\$10,000,000) may be expended
28 annually by the department, until January 1, 2007, to issue grants
29 for recycling market development and expansion-related activities
30 aimed at increasing the recycling of beverage containers,
31 including, but not limited to, the following:

32 (A) Research and development of collecting, sorting,
33 processing, cleaning, or otherwise upgrading the market value of
34 recycled beverage containers.

35 (B) Identification, development, and expansion of markets for
36 recycled beverage containers.

37 (C) Research and development for products manufactured
38 using recycled beverage containers.

(D) Payments to California manufacturers who recycle beverage containers that are marked by resin type identification codes “3,” “4,” “5,” “6,” or “7,” pursuant to Section 18015.

(b) The fifteen million dollars (\$15,000,000) that is set aside pursuant to paragraph (3) of subdivision (a) is a base amount that the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) (1) The department shall review all funds on a quarterly basis to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the payments required by this section and the processing fee reductions required pursuant to Section 14575, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (7) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers, to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

~~SEC. 17.~~

SEC. 16. Section 14585 of the Public Resources Code is amended to read:

14585. (a) The department shall adopt guidelines and methods for paying handling fees to supermarket sites, nonprofit convenience zone recyclers, or rural region recyclers to provide an

1 incentive for the redemption of empty beverage containers in
2 convenience zones. The guidelines shall include, but not be limited
3 to, all of the following:

4 (1) Handling fees shall be paid on a monthly basis, in the form
5 and manner adopted by the department. The department shall
6 require that claims for the handling fee be filed with the
7 department not later than the first day of the second month
8 following the month for which the handling fee is claimed as a
9 condition of receiving any handling fee.

10 (2) To be eligible for any handling fee, a supermarket site
11 recycling center, nonprofit convenience zone recycler, or rural
12 region recycler shall redeem not less than 60,000 beverage
13 containers, during the calendar month in which the handling fee is
14 claimed, or have redeemed not less than an average of 60,000
15 beverage containers per month during the previous 12 months,
16 and, except for operators of certified recycling centers that are
17 nonprofit organizations, not more than 500,000 beverage
18 containers, during the calendar month in which the handling fee is
19 claimed.

20 (3) A beverage container with a capacity of 24 fluid ounces or
21 more shall be considered as two beverage containers for purposes
22 of determining the eligibility percentage, any handling fee
23 calculations, and payments.

24 (4) The department shall determine the number of eligible
25 containers per site for which a handling fee will be paid in the
26 following manner:

27 (A) Each eligible site's combined monthly volume of glass and
28 plastic beverage containers shall be divided by the site's total
29 monthly volume of all empty beverage container types.

30 (B) If the quotient determined pursuant to subparagraph (A) is
31 equal to, or more than, 10 percent, the total monthly volume of the
32 site shall be the maximum volume which is eligible for a handling
33 fee for that month.

34 (C) If the quotient determined pursuant to subparagraph (A) is
35 less than 10 percent, the department shall divide the volume of
36 glass and plastic beverage containers by 10 percent. That quotient
37 shall be the maximum volume that is eligible for a handling fee for
38 that month.

1 (5) The department shall pay a handling fee of 1.8 cents
2 (\$0.018) per eligible beverage container, as determined pursuant
3 to paragraph (4).

4 (6) Notwithstanding paragraph (5), the total handling fee
5 payment to a supermarket site, nonprofit convenience zone
6 recycler, or rural region recycler shall not exceed two thousand
7 three hundred dollars (\$2,300) per month.

8 (7) If the eligible volume in any given month would result in
9 handling fee payments which exceed the allocation of funds for
10 that month, as provided in subdivision (b), sites with higher
11 eligible monthly volumes shall receive handling fees for their
12 entire eligible monthly volume before sites with lower eligible
13 monthly volumes receive any handling fees.

14 (8) (A) If a dealer where a supermarket site, nonprofit
15 convenience zone recycler, or rural region recycler is located
16 ceases operation for remodeling or for a change of ownership, the
17 operator of that supermarket site nonprofit convenience zone
18 recycler, or rural region recycler shall be eligible to apply for
19 handling fees for that site for a period of three months following
20 the date of the closure of the dealer.

21 (B) Every supermarket site operator, nonprofit convenience
22 zone recycler, or rural region recycler shall promptly notify the
23 department of the closure of the dealer where the supermarket site,
24 nonprofit convenience zone recycler, or rural region recycler is
25 located.

26 (C) Notwithstanding subparagraph (A), any operator who fails
27 to provide notification to the department pursuant to subparagraph
28 (B) shall not be eligible to apply for handling fees.

29 ~~(b) The department may allocate the twenty-three million five~~
30 ~~hundred thousand dollars (\$23,500,000) authorized for~~

31 *(b) The department may allocate the amount authorized for*
32 *expenditure for the payment of handling fees pursuant to*
33 *paragraph (1) of subdivision (a) of Section 14581 on a monthly*
34 *basis and may carry over any unexpended monthly allocation to a*
35 *subsequent month or months. However, unexpended monthly*
36 *allocations shall not be carried over to a subsequent fiscal year for*
37 *the purpose of paying handling fees but may be carried over for*
38 *any other purpose pursuant to Section 14581.*

39 (c) (1) The department shall not make handling fee payments
40 to more than one certified recycling center in a convenience zone.

1 If a dealer is located in more than one convenience zone, the
2 department shall offer a single handling fee payment to a
3 supermarket site located at that dealer. This handling fee payment
4 shall not be split between the affected zones. The department shall
5 stop making handling fee payments if another recycling center
6 certifies to operate within the convenience zone without receiving
7 payments pursuant to this section, if the department monitors the
8 performance of the other recycling center for 60 days and
9 determines that the recycling center is in compliance with this
10 division. Any recycling center that locates in a convenience zone,
11 thereby causing a preexisting recycling center to become
12 ineligible to receive handling fee payments, is ineligible to receive
13 any handling fee payments in that convenience zone.

14 (2) The department shall offer a single handling fee payment to
15 a rural region recycler that is located anywhere inside a
16 convenience zone that is not served by another certified recycling
17 center and does either of the following:

18 (A) Operates a minimum of 30 hours per week in one
19 convenience zone.

20 (B) Serves two or more convenience zones, and meets all of the
21 following criteria:

22 (i) Is the only certified recycler within each convenience zone.

23 (ii) Is open and operating at least eight hours per week in each
24 convenience zone and is certified at each location.

25 (iii) Operates at least 30 hours per week in total for all
26 convenience zones served.

27 (d) The department may require the operator of a supermarket
28 site or rural region recycler receiving handling fees to maintain
29 records for each location where beverage containers are redeemed,
30 and may require the supermarket site or rural region recycler to
31 take any other action necessary for the department to determine
32 that the supermarket site or rural region recycler does not receive
33 an excessive handling fee.

34 (e) The department may determine and utilize a standard
35 container per pound rate, for each material type, for the purpose
36 of calculating volumes and making handling fee payments.

37 *SEC. 17. (a) Upon written approval of the Director of*
38 *Finance, an amount not to exceed eighty million dollars*
39 *(\$80,000,000) may be transferred for fiscal year 2003–04 from the*
40 *California Beverage Container Recycling Fund established*

1 pursuant to Section 14580 of the Public Resources Code to the
2 General Fund. The transfer made by this subdivision is a loan to
3 the General Fund and shall be fully repaid by June 30, 2010. This
4 loan shall be repaid with interest at the rate earned by the Pooled
5 Money Investment Account at the time of the transfer. The
6 Controller shall, within 15 working days of receipt of a written
7 notification from the Director of Finance, transfer from the
8 General Fund to the Beverage Container Recycling Fund the full
9 amount of the loan or increments thereof as requested by the
10 Director of Finance. It is the intent of the Legislature that the
11 repayment is made so as to ensure that the programs supported by
12 this fund are not adversely affected by the loan.

13 (b) (1) Upon written approval of the Director of Finance, an
14 amount not to exceed one hundred million dollars (\$100,000,000)
15 annually may be transferred for fiscal year 2004–05 and fiscal
16 year 2005–06 from the California Beverage Container Recycling
17 Fund established pursuant to Section 14580 of the Public
18 Resources Code to the General Fund. The Director of Finance may
19 not transfer funds pursuant to this subdivision unless the Director
20 of Conservation determines that the amount of the transfer will not
21 affect the ability of the Department of Conservation to make the
22 expenditures specified in Sections 14580 and 14581 of the Public
23 Resources Code in the full amounts specified in those sections,
24 notwithstanding subdivision (d) of Section 14581.

25 (2) A transfer made by paragraph (1) is a loan to the General
26 Fund and the amount transferred for fiscal year 2004–05 shall be
27 fully repaid by June 30, 2011, and the amount transferred for fiscal
28 year 2005–06 shall be fully repaid by June 30, 2012. This loan
29 shall be repaid with interest at the rate earned by the Pooled
30 Money Investment Account at the time of the transfer. The
31 Controller shall, within 15 working days of receipt of a written
32 notification from the Director of Finance, transfer from the
33 General Fund to the Beverage Container Recycling Fund the full
34 amount of the loan or increments thereof as requested by the
35 Director of Finance. It is the intent of the Legislature that the
36 repayment is made so as to ensure that the programs supported by
37 this fund are not adversely affected by the loan.

38 (c) Upon the written approval of the Director of Finance, a loan
39 made pursuant to this section shall be transferred back to the
40 California Beverage Container Recycling Fund in an amount

1 *necessary to provide operating funds for support of the Beverage*
2 *Container Recycling and Litter Recycling Act (Division 12.1*
3 *(commencing with Section 14500) of the Public Resources Code.*
4 *Once the monthly cashflow needs of the California Beverage*
5 *Container Recycling and Litter Reduction Act are met, any excess*
6 *General Fund moneys transferred to the California Beverage*
7 *Container Recycling Fund during the fiscal year shall revert to the*
8 *General Fund on the June 30 of that fiscal year.*

9 SEC. 18. No reimbursement is required by this act pursuant
10 to Section 6 of Article XIII B of the California Constitution
11 because the only costs that may be incurred by a local agency or
12 school district will be incurred because this act creates a new crime
13 or infraction, eliminates a crime or infraction, or changes the
14 penalty for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition of a
16 crime within the meaning of Section 6 of Article XIII B of the
17 California Constitution.

18 SEC. 19. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety
20 within the meaning of Article IV of the Constitution and shall go
21 into immediate effect. The facts constituting the necessity are:

22 In order to encourage the recycling of beverage containers,
23 thereby better protecting public and health and safety and the
24 environment, it is necessary that this act take effect immediately.

